

EXHIBIT B

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 KNIFE RIGHTS, INC., JOHN COPELAND, PEDRO PEREZ,
5 KNIFE RIGHTS FOUNDATION, INC., and
6 NATIVE LEATHER, LTD,

7 PLAINTIFFS,

8 -against-

9 Case No.:
10 1:11-cv-03918-KBF-RLE

11 CYRUS VANCE, JR., in his Official as the New York County
12 District Attorney and CITY OF NEW YORK,

13 DEFENDANTS.

14 -----X

15 DATE: June 11, 2013

16 TIME: 10:00 a.m.

17 DEPOSITION of an Expert Witness, BRUCE VOYLES,
18 taken by the Respective Parties, pursuant to a Notice and
19 to the Federal Rules of Civil Procedure, held at the
20 offices of Bee Reporting Agency, 315 Madison Avenue, New
21 York, New York, before Gena Nardone, a Notary Public of the
22 State of New York.
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25

1 A P P E A R A N C E S:

2

3 DAVID JENSEN, PLLC

4 Attorney for the Plaintiffs
5 KNIFE RIGHTS, INC., JOHN COPELAND,
6 PEDRO PEREZ, KNIFE RIGHTS FOUNDATION, INC.,
7 and NATIVE LEATHER, LTD
111 John Street
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BY: DAVID JENSEN, ESQ.

8

9 NEW YORK COUNTY DISTRICT ATTORNEY'S OFFICE

10 Attorneys for the Defendant
11 CYRUS VANCE, JR., in his Official as the New York
County District Attorney
One Hogan Place
New York, New York 10013
12 BY: PATRICIA J. BAILEY, ESQ.
BY: EVA MARIE DOWDELL, ESQ.

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BY: LOUISE LIPPIN, ESQ.

21

File #: PPP08056

22

23 ALSO PRESENT:

24

DOUG RITTER

25

26

27

28

29

B. VOYLES

1 Q. Is there any other reason why you could think of
2 why you couldn't give honest and truthful answers today?

3 A. No.

4 Q. No reason to be affected today?

5 A. (No verbal response.)

6 Q. Okay. Thank you.

7 If you could just give a listing of the materials
8 you've reviewed in preparation for the deposition.

9 A. I reviewed excerpts from the New York Times in
10 their archive. I reviewed the Congressional record. I
11 reviewed catalogs, patents, my own historical data from 39
12 years in the cutlery business.

13 Q. What historical data are you talking about when
14 you say "my own historical data?"

15 A. I have a large collection of cutlery catalogs,
16 various data.

17 Q. So, you reviewed those catalogs?

18 A. Yes.

19 Q. How far back did those date?

20 A. Some of them date back to the 1870s.

21 Q. Are you the author of any of those catalogs?

22 A. Not the catalogs.

23 Q. Are you the author of any materials that you
24 reviewed?

25 A. Yes.

B. VOYLES

1 Q. Which materials are those?

2 A. We'll, there's eight volumes of the Official
3 Price Guide To Collector Knives, ABCA Price Guide To
4 Antique Knives and two volumes American Blade Collectors
5 Association Price Guide to Antique knives. American Blade
6 Collectors Price Guide to Commemorative Knives.

7 MR. JENSEN: Did you ask what he reviewed
8 for the deposition or for his report?

9 MS. BAILEY: Well, is that an objection?

10 MR. JENSEN: No.

11 MS. BAILEY: Because you're not here to
12 clarify.

13 A. These were works I consulted.

14 Q. Yes. Okay. You consulted them both prior to
15 issuing your report?

16 A. Yes.

17 Q. Did you consult them after you issued your report
18 and in preparing for your deposition today?

19 A. Yes.

20 Q. Is it fair to say everything you reviewed before
21 you reached your report you re-reviewed in preparation for
22 today's --

23 A. Yes.

24 Q. Did you meet with Mr. Jensen in preparation for
25 today's testimony?

B. VOYLES

1 A. Yes.

2 Q. Did you go over what you anticipate to be
3 questions to be asked today?

4 A. Yes.

5 Q. Of the materials that you reviewed, what
6 materials came directly from either Mr. Jensen or any one
7 of the plaintiffs?

8 A. There were some copies of Congressional record.
9 There were --

10 Q. Which Congressional records, the year?

11 A. The one concerning the 1958 Switchblade Act.

12 Q. Okay.

13 A. There were some excerpts from the New York Times,
14 which I went into the archive and verified that those were
15 from the New York Times. Some patents.

16 Q. Anything else?

17 A. Probably some miscellaneous things, but I can't
18 recall specifically.

19 Q. If you recall during the course of the testimony,
20 please let us know.

21 A. I beg your pardon?

22 Q. If you recall during the course of your testimony
23 today, let us know.

24 A. Okay.

25 Q. When were you first contacted by plaintiffs

B. VOYLES

1 regarding this case?

2 A. I'm not sure exactly. Probably year, year and a
3 half ago. I can't remember exactly.

4 Q. Who first contacted you?

5 A. Doug Ritter.

6 Q. Did you know Doug Ritter before that first
7 contact?

8 A. In passing only.

9 Q. What do you mean by "in passing?"

10 A. I knew who he was. I saw him at the shows. As
11 far as having any conversations or anything like that,
12 nothing.

13 Q. Would it be fair to say that he contacted you
14 sometime in 2011?

15 A. I'm totally blank on the exact time.

16 Q. Have you read the amended complaint in this case,
17 the filings by the plaintiffs?

18 A. I'm not -- I'm not sure actually.

19 Q. Do you know what the basis of the lawsuit is?

20 A. Yes.

21 Q. What is your understanding?

22 A. My understanding is that there is a disagreement
23 over the definition of a gravity knife.

24 Q. A disagreement between whom and whom?

25 A. Between the plaintiffs and the district

B. VOYLES

1 attorney's office.

2 Q. In Manhattan? You're talking about the Manhattan
3 district attorney, Cyrus Vance?

4 A. Yes.

5 Q. Do you know where that disagreement stems from?

6 A. I understand it was from a confiscation of knives
7 from several companies.

8 Q. Here in Manhattan?

9 A. Yes.

10 Q. Were you aware that that investigation and
11 confiscation by the district attorney's office of the
12 retailers at the time it happened?

13 A. Very soon thereafter.

14 Q. From that point when you first became aware of it
15 until you first spoke with someone associated with this
16 litigation, approximately how much time lapsed?

17 A. Months.

18 Q. Months?

19 A. I can't get specific. I don't know.

20 Q. But it wasn't at the time?

21 A. No, no.

22 Q. Can you give us your educational background?

23 A. I have attended Georgia State University.

24 Q. Did you graduate?

25 A. Yes.

B. VOYLES

1 closed position?"

2 A. A folding knife typically has a spring or some
3 kind of item of resistance that prevents the blade from
4 opening.

5 Q. If you're just holding it, you're talking about?

6 A. If it's in your pocket or whatever. It's a
7 safety feature.

8 Q. That tendency of a folding knife to resist
9 opening, is that phrase similar to a bias towards closure?
10 Are they similar phrases or different?

11 A. I would say they are very similar.

12 Q. Since you say "very similar," what would be the
13 difference?

14 A. I'm not sure there's a substantial difference.

15 Q. What would be the minimal difference then?

16 A. (No response.)

17 Q. Is it fair to say that they mean the same thing?

18 A. Yes, I guess.

19 Q. So, looking at the second design feature, Mr.
20 Jensen asked you to emphasize. You say, "Finally, you
21 referred me to several specific historical materials and
22 asked me to explain references to knives." What specific
23 materials are you referencing there?

24 A. Patents.

25 Q. Which patents was your attention directed to?

B. VOYLES

1 A. The patents concerning gravity knives.

2 Q. Do you recall which ones?

3 A. Not specifically by number.

4 Q. Are they in the materials Mr. Jensen provided
5 this morning?

6 A. One of them is, yes.

7 Q. Which one?

8 A. The one on page two.

9 Q. Are there any other contained -- that you looked
10 at, that are contained in the materials provided by Mr.
11 Jensen this morning?

12 A. There are some other patents that are similar.
13 They are all basically the same concept.

14 Q. You're making the reference to the patent on what
15 is now numbered two of your report?

16 A. Uh-huh.

17 Q. That's a patent from 18, what is that, '83?

18 A. I think so, yes. 1883.

19 Q. Did you look at any other patents aside from this
20 patent in 1883?

21 A. Yes.

22 Q. That's what I'm trying to find out. Which other
23 patents did you look at?

24 A. Well, there were several patents on knives and
25 even pens that you depress the lever and the blade falls

B. VOYLES

1 out.

2 Q. Did Mr. Jensen provide you with copies of those
3 materials to review?

4 A. He provided some and some I looked at on the
5 searches.

6 Q. The ones that you looked at either by Mr. Jensen
7 or the ones you found on your own, are they included in the
8 materials provided by Mr. Jensen to the parties this
9 morning?

10 A. I think there are some in there, yes.

11 Q. Are they all in there?

12 A. (No response.)

13 Q. If you don't know, just say so.

14 A. I don't know.

15 MS. BAILEY: I'm just making a request for
16 production. For counsel to determine from Mr.
17 Voyles which ones he looked at and then provide
18 them to the parties.

19 MR. JENSEN: We will take it under
20 advertisement.

21 Q. Aside from Mr. Jensen providing you copies of
22 patents, what else did he provide you that you're referring
23 to in that particular sentence?

24 A. Well, he provided some copies of newspaper
25 articles, excerpts from the Congressional record.

B. VOYLES

1 Q. Are those materials contained in the documents --

2 A. As I recall, they are, yes.

3 Q. Including the Congressional record?

4 A. I don't know about the Congressional record.

5 MR. JENSEN: The Congressional record was
6 produced previously.

7 MS. BAILEY: David, you really have to stop
8 interrupting like that.

9 Q. Did you look at the entire Congressional record
10 from the 1958 Switchblade Act?

11 A. Yes, I did.

12 Q. From beginning to end?

13 A. Yes.

14 Q. The specific New York Times articles, was it,
15 that Mr. Jensen brought to your attention?

16 A. Yes.

17 Q. Copies are contained in the materials provided by
18 Mr. Jensen this morning?

19 A. Yes.

20 Q. Thank you.

21 Aside from the ones that Mr. Jensen provided you,
22 did you look for any other articles from any other
23 periodicals?

24 A. Well, yes. I looked through knife books and
25 publications. Anything that would be referred to within

B. VOYLES

1 that.

2 Q. Did you look at any of the newspapers from the
3 New York area at the time?

4 A. No, I did not.

5 Q. You didn't look at the New York Post?

6 A. No.

7 Q. Just the New York Times?

8 A. Yes.

9 Q. Did you look beyond what Mr. Jensen had given
10 you?

11 A. Yes.

12 Q. Did you find anything in addition to what Mr.
13 Jensen had given you?

14 A. Not that was pertinent, I felt.

15 Q. Would it be fair to say that Mr. Jensen asked for
16 a historical review of the term "gravity knife" and not a
17 review of the term or phrase "application of centrifugal
18 force?"

19 A. Yes.

20 Q. In your report, you say, "I've been a collector
21 and a dealer of vintage and collectable knives since 1974."

22 A. Uh-huh.

23 Q. What makes a knife vintage?

24 A. Well, within our business, it's basically an
25 outfit roughly 20 years old or older that's not been

B. VOYLES

1 starting with the word "gravity." If the blade does not
2 open by gravity, it can't be a gravity knife.

3 Q. Understood. I understand your opinion.

4 And that is in the context of Mr. Jensen asking
5 you to focus on this historical meaning of gravity knife,
6 correct.

7 A. That is my response to that question.

8 Q. Okay. In preparing or researching before coming
9 to an opinion, did you look or review the New York State
10 penal law with respect to New York's definition of a
11 gravity knife?

12 A. Yes.

13 Q. Did you find that that definition states "any
14 knife which has a blade which is released from the handle
15 or sheath thereof by the force of gravity or the
16 application of centrifugal force and which, when released,
17 is locked in place by means of a button, spring, lever or
18 other device?"

19 MR. JENSEN: Objection. This goes beyond
20 anything in his report. He wasn't asked to put
21 an opinion on this. He can answer, to the extent
22 he's able. But I want that clear.

23 Q. You just stated you reviewed that in
24 preparation --

25 A. I read that.

B. VOYLES

1 Q. Would it be fair to say, from what I just read to
2 you from the penal law, that New York State statute doesn't
3 require a gravity knife, as New York State defines it, to
4 have a pivot pin?

5 MR. JENSEN: Objection. Same objection.
6 This isn't what he was asked to express an
7 opinion on.

8 Q. Go ahead. You can answer.

9 A. From a historical aspect --

10 Q. I'm not asking from a historical aspect. I'm
11 asking --

12 A. That's what I'm here for.

13 Q. So, let's put it this way.

14 You have no opinion whatsoever on what the New
15 York State law is with respect to the definition of a
16 gravity knife?

17 A. Yes, I do have an opinion.

18 Q. Do you know what the definition is of the New
19 York State gravity knife?

20 A. I have read it. I have my interpretation of what
21 that reads, yes. My understanding of that.

22 Q. Did you read any of the case law by the courts
23 that have interpreted that statute?

24 A. I looked over some of those, yes.

25 Q. Which ones did you look over?

B. VOYLES

1 A. I don't remember.

2 Q. If I gave you the name of the cases, would it
3 refresh your recollection?

4 A. Probably not.

5 Q. Well, we'll try.

6 A. I didn't spend a lot of times on those.

7 Q. Why did you look at them if you weren't asked to
8 give an opinion with respect to the legal definition?

9 A. It was just background.

10 Q. It's more to understand the context of why you're
11 giving your opinion, do you think, or not?

12 A. I feel that I understand the context of what a
13 gravity knife is.

14 Q. Do you think it's important to understand the
15 context of the law of the state where you are giving an
16 opinion?

17 MR. JENSEN: Same objection.

18 A. I'm not an attorney. I was asked to approach
19 this from a historical standpoint and my understanding of
20 that item.

21 Q. That's fine. That's all I wanted to know.

22 So, you have not been asked to give any opinion
23 with respect to the legal definition of a gravity knife
24 here in New York?

25 A. No.

B. VOYLES

1 been important to be familiar with recent legislation
2 dealing with gravity knives or switchblades?

3 A. I am, in a passing way, familiar with it. To sit
4 down and digest it word by word and parse it, no.

5 Q. So, you couldn't describe the changes to the law
6 from the 2009 Federal legislation?

7 A. I thought I just did earlier.

8 Q. That's the only one that you're aware of?

9 A. Primarily to the detent being the resistance and
10 you have to open the blade a certain number of degrees
11 before the spring takes over.

12 Q. Do you know whether Knife Rights, the plaintiff
13 here, was actively involved in lobbying the legislature to
14 change that law?

15 MR. JENSEN: Objection as to relevance.

16 Q. You could answer the question. If you know.

17 A. As I recall, they were.

18 Q. Do you know whether AKTI was involved in lobbying
19 the legislature to change the law?

20 MR. JENSEN: Same objection.

21 Q. You can still answer.

22 A. I think so. I don't know.

23 Q. So, earlier you said that you looked at some of
24 the New York case law that interpreted New York's penal
25 code definition of the gravity knife, correct?

B. VOYLES

1 A. Yes.

2 Q. I'm going to ask you a series of names of cases.
3 Tell me whether or not it refreshes your recollection as to
4 whether you reviewed that particular case, okay?

5 A. Okay.

6 Q. People v. Dolson, D-O-L-S-O-N? That was an
7 Onondaga County case from 1989.

8 A. I read over several cases. To remember by name,
9 I can't.

10 Q. Okay. Just let me know if you do or you don't as
11 I read the names off to you, okay?

12 A. Okay.

13 Q. People v. Birth, B-I-R-T-H?

14 A. I don't remember.

15 Q. People v. Neal, 2010, N-E-A-L?

16 A. I don't remember.

17 Q. People v. Jouvert, J-O-U-V-E-R-T, from 2008?

18 A. As I said, I didn't note them by the case name.
19 So, I don't know -- I can't tell you if I read those or
20 not, to be frank.

21 Q. That's all I'm asking, if you recall.

22 People v. Smith from 2003, court of appeals case?

23 A. No. I don't know.

24 Q. Do you know what the court of appeals is in New
25 York?

B. VOYLES

1 A. I just know it's an appeals court that
2 overrules --

3 Q. Lower courts?

4 A. Lower courts.

5 Q. People v. Kong Wang, W-A-N-G, from 2007?

6 A. No.

7 Q. Carter v. McCoy from 2010?

8 A. I don't recall.

9 Q. People v. Herbin, H-E-R-B-I-N, from 2011?

10 A. I don't recall.

11 Q. People v. Voltaire from 2007?

12 A. I don't recall.

13 Q. People v. Giles, G-I-L-E-S, from 2012, an
14 appellate decision?

15 A. I do not recall.

16 Q. And People v. Brannon and Hernandez from 2011?

17 A. I do not recall.

18 Q. You said you looked at patents. Did you find any
19 patents that have or characterize a folding knife as a
20 gravity knife?

21 A. Not that I recall.

22 MS. BAILEY: I ask that this be marked
23 Defendant's Exhibit C.

24 (Whereupon, the aforementioned patent number
25 6477777 B1 was marked as Defendant's Exhibit C

B. VOYLES

1 opener?

2 A. Bottle opener.

3 Q. It looks like it has a serrated edge at the top?

4 A. It's a fish scaler.

5 Q. So, how does this knife operate?

6 A. Exactly like the other one.

7 Q. So, you have to use your thumbnail or fingernail
8 to literally pull it out?

9 A. And it locks so you can use the fish scaler.

10 Q. So, these other knives which are numbered on this
11 document as 14, 15, 16, 18, 20 and 21, what types of knives
12 are they; are they some other category altogether?

13 A. Knife collectors have names specifically for some
14 of the patterns. Generally they can all pretty well be
15 lumped in as Jackknives.

16 Q. Or folding knives?

17 A. Yeah. They're all folders.

18 Q. Excuse me?

19 A. They're all folders.

20 Q. Final query by Mr. Jensen was with respect to the
21 New York Times articles he gave you or directed your
22 attention to. You looked at -- do you recall how many? Or
23 are the ones you listed in your report?

24 A. I want to say 13.

25 Q. Not just the ones listed in your report, there

B. VOYLES

1 are others?

2 A. No.

3 Q. Do you recall, aside from ones listed in the
4 report, the dates of the other articles? Or would you have
5 a way to find that out?

6 A. It's all within this time frame, pre '58, or
7 shortly thereafter.

8 Q. Would you be able to find out, if you don't know
9 off the top of your head, the exact dates of publications
10 for those other articles?

11 A. Sure.

12 Q. Would you be able to provide it to Mr. Jensen?

13 MR. JENSEN: Yeah. But I'll tell you, all
14 those articles he looked at are in those
15 documents.

16 MS. BAILEY: Okay. Fair enough.

17 Q. So, they're all contained in the documents. I
18 received all 13?

19 A. Yes.

20 Q. Alright. Terrific.

21 If I'm correct, we've already established you
22 only looked at the New York Times newspapers from that time
23 period, none of the other New York newspapers from that
24 time period, correct?

25 A. Yes.

B. VOYLES

1 definition commonly associated with Jackknife is any knife
2 that folds." Can you clarify that for me?

3 A. Yes. People that don't know diddly-squat about
4 knives call most knives a Jackknife.

5 Q. Where did you get that definition?

6 A. Jackknife?

7 Q. The one I just read, a knife enthusiast see it as
8 swell end knife with two blades coming from the same end?

9 A. It's common knowledge within the cutlery
10 industry.

11 Q. No specific source?

12 A. I guess I'm the specific source. I've got it in
13 all -- I mean, every knife book in the business has that.

14 Q. A knife with a single blade would not be a
15 Jackknife; is that correct?

16 A. It depends -- again, within the cutlery business,
17 a Jackknife is a swell end Jack. A standard Jackknife has
18 two blades. More like a boy's knife, they call it. There
19 are one-blade versions of it. But somebody -- if you're
20 reading -- if you're reading a piece of fiction from
21 somebody and they call it -- and some boy has a Jackknife,
22 it could be anything.

23 Q. Anything that folds?

24 A. Yes.

25 Q. I think you said you hadn't seen the amended

B. VOYLES

1 complaint.

2 In the amended complaint the plaintiffs refer to
3 something called a common folding knife. Are you familiar
4 with that term?

5 A. Not particularly.

6 Q. Do Jackknives have any kind of tension
7 adjustment?

8 A. Knives do not have tension adjustments. There is
9 a spring that presses against the blade that gives it a
10 resistance to opening.

11 Q. Is there a way to alter the level of resistance?

12 A. No. They're set at the factory.

13 Q. And there's no way to alter that?

14 A. I mean, short of destruction of the knife, no.
15 There's not -- there's not screws you can adjust for those
16 kind of things for the spring tension.

17 Q. If over use the blade of a Jackknife starts to
18 exit the handle on its own, is there a way to adjust it so
19 that it won't do that anymore?

20 A. No. Not that I know of.

21 Q. So, you're saying that once a Jackknife loses its
22 resistance, it can't be restored?

23 A. Well, there's some resistance there till the
24 spring breaks. The way a knife is made, there's always
25 resistance on that tang of the knife.